

Glendale Broadcasting Company
MM Docket No. 93-75
Exhibit No. 210.

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

~~DOCKET FILE COPY ORIGINAL~~

In re Applications of)
)
TRINITY BROADCASTING OF)
FLORIDA, INC.)
)
For Renewal of License of)
Station WHFT(TV), Channel)
45, Miami, Florida)
)
GLENDALE BROADCASTING)
COMPANY)
)
For a Construction Permit)
for a New TV Station on)
Channel 45 at Miami, Florida)

MM DOCKET NO. 93-75

File No. BRCT-911001LY

File No. BPCT-911227KE

COPY

RECEIVED
OCT 13 1993
COHEN & BERFIELD

DEPOSITION OF WARREN BENTON MILLER, II

Santa Ana, California

Tuesday, September 21, 1993

Volume I

Sarnoff
**DEPOSITION
SERVICE, INC.**

REPORTED BY:

SHERI L. CLARK-BELL, CSR NO. 6368
JOB NO. 136744

Los Angeles
6222 Wilshire Blvd., Suite 204
Los Angeles, CA 90048
213.938.2461
Fax 213.931.3016

Orange County
2100 N. Broadway, Suite 210
Santa Ana, CA 92706
714.834.1571
Fax 714.834-9235

San Diego
619.434.4854
Fax 619.544.9901

800.888.6949

Federal Communications Commission

Docket No. 43-73 Exhibit No. 210 ^{GBC}

Presented by Coleman

Disposition { Identified 12-4-43
Received 12-6-43
Rejected _____

Reporter A. Williams

Date 12-4-43

1 Before the
2 FEDERAL COMMUNICATIONS COMMISSION
3 Washington, D.C. 20554

4 In re Applications of) MM DOCKET NO. 93-75
5 TRINITY BROADCASTING OF) File No. BRCT-911001LY
6 FLORIDA, INC.)
7 For Renewal of License of)
8 Station WHFT(TV), Channel)
9 45, Miami, Florida)
10 GLENDALE BROADCASTING) File No. BPCT-911227KE
11 COMPANY)
12 For a Construction Permit)
13 for a New TV Station on)
14 Channel 45 at Miami, Florida)

15
16 Deposition of WARREN BENTON MILLER, II,
17 Volume I, taken on behalf of Glendale Broadcasting Company,
18 at 2100 North Broadway, Suite 310, Santa Ana, California,
19 commencing at 3:20 p.m., on Tuesday, September 21, 1993,
20 before SHERI L. CLARK-BELL, Certified Shorthand Reporter No.
21 6368, pursuant to Notice.
22
23
24
25

1 APPEARANCES:

2

3 For Glendale Broadcasting Company:

4 COHEN & BERFIELD, P.C.
Attorneys at Law
5 BY: LEWIS I. COHEN
Board of Trade Building
6 1129 20th Street, N.W.
Washington, D.C. 20036

7

8 For Trinity Broadcasting of Florida, Inc.,
9 Trinity Christian Center of Santa Ana, Inc.
dba Trinity Broadcasting Network, and
10 National Minority TV, Inc.:

11 MULLIN, RHYNE, EMMONS & TOPEL, P.C.
Attorneys at Law
12 BY: HOWARD A. TOPEL
1000 Connecticut Avenue
13 Suite 500
Washington, D.C. 20036-5383

14

15 For Mass Media Bureau - Federal
16 Communications Commission:

17 JAMES W. SHOOK
Attorney at Law
18 Mass Media Bureau
Washington, D.C. 20554
19 (No appearance made.)

20

21 Also Present:

22 COLBY M. MAY

23

24

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

I N D E X

<u>WITNESS</u>	<u>EXAMINATION</u>	<u>PAGE</u>
MILLER, II, WARREN BENTON (Volume I)	BY MR. COHEN	5

EXHIBITS FOR IDENTIFICATION

(None)

1 Santa Ana, California, Tuesday, September 21, 1993

2 3:20 p.m.

3

4

WARREN BENTON MILLER, II,

5

produced as a witness by and on behalf of Glendale

6

Broadcasting Company, and having been first duly sworn, was

7

examined and testified as follows:

8

9

EXAMINATION

10 BY MR. COHEN:

11

Q Will you state your name for the record,

12

please.

13

A Warren Benton Miller, II.

14

Q And will you state your residence address.

15

A 719 Calle Vallarta, San Clemente.

16

Q Let me say to you at the outset, as I've said

17

to your colleagues who have been deposed -- first let me ask

18

you the question: Have you ever been deposed, sir?

19

A Yes, I have.

20

Q Well, nonetheless, I want to try to ask you

21

clear questions. If my questions are not clear, please tell

22

me they are not, and I will try to do better. If during the

23

course of your deposition you ever want to change or

24

supplement or add or correct or modify any answer, I

25

encourage you to do so. All I want from you are the facts,

1 and I want the best facts, so please feel free to do that.
2 Any time you want to take a break and go to the restroom or
3 or have a soft drink, walk around the room, please do that.

4 A Okay.

5 Q We have had a sequestration rule in this
6 proceeding. Has that been explained to you?

7 A Yes, it has.

8 MR. COHEN: Just so the record is clear, would you
9 state on the record, Mr. Topel, what you have told the
10 witness about the sequestration rule.

11 MR. TOPEL: Yes. I have advised Mr. Miller that both
12 prior to his testimony he was not permitted to speak with
13 any other witness who had already given a deposition about
14 any of the questions or answers or substance of their
15 depositions and that following his deposition he is not to
16 speak with any upcoming witness who has not yet been deposed
17 about the substance of his own deposition, any questions and
18 answers that were given.

19 And I will show him a list that we already have
20 a record of that I read earlier to Mr. Horvath. I won't
21 read it again. But, Mr. Miller, the names that appear below
22 yours on the list that I'm showing you are the people who
23 have not yet been deposed and are going to be deposed, and
24 you should make a conscious effort to steer away from them
25 and to not speak to them in any way, shape or form about

1 what questions you are asked today and how you respond to
2 those questions.

3 BY MR. COHEN:

4 Q Is that clear to you, sir?

5 A I understand.

6 Q I take it you have no knowledge of any of the
7 questions that were put to the previous witnesses or any of
8 the answers that were given by them?

9 A Correct, I have no knowledge.

10 Q Do you know who the witnesses were that have
11 been deposed?

12 A Just based upon what I saw on the list.

13 Q I see. How did you prepare for today's
14 deposition, sir?

15 A Other than with counsel?

16 Q Well, no. That was part of your preparation, I
17 take it, then?

18 A The preparation process was an orientation of
19 what was going to happen in this room, a number of documents
20 and facts were reviewed or questions asked of me,
21 information as to in what form my answers were to be given,
22 and production of documents.

23 Q What documents did you review?

24 A Please clarify.

25 Q Well, tell me, were they categories of

1 documents that you reviewed, were they hundreds of pages, a
2 few pages?

3 A Documents. In what process? In my production
4 of documents or ones reviewed with counsel?

5 Q I'm sorry if I have confused you.

6 A Yes.

7 Q I am now asking you about how you prepared for
8 the deposition, and I thought you said that counsel and you
9 reviewed some documents.

10 A That's correct.

11 Q Maybe I misunderstood you.

12 A No.

13 Q My question is: What documents do you recall
14 reviewing with counsel?

15 A Numerous documents, too numerous to categorize.

16 Q Were they the documents that were produced by
17 you or through you --

18 A Some.

19 Q -- during the document production?

20 A Some.

21 Q And some of them were not? Let me ask you
22 this: Did you review any documents which, to your
23 knowledge, were not produced?

24 A No.

25 Q Now, when did you have this meeting?

1 A On two occasions. One of them was last
2 Saturday -- I'm sorry, three occasions. One last Saturday.

3 Q And who was present last Saturday?

4 A Mr. May and Mr. Topel. On a previous occasion
5 a week and a half prior to that, roughly, with Mr. May and
6 Mr. Topel, and on an occasion previous to that with
7 Mr. Dunne, and I don't recall how long ago that was.

8 Q Now, the document production, you participated
9 in that?

10 A Yes.

11 Q Tell me to what extent you participated.

12 A I participated in that from the extent that I
13 personally pulled all the electronic documents from the hard
14 drives of my computer, word processing files that still
15 existed that were not in written form or hard copy form, and
16 I gave explicit instructions to my secretary to produce all
17 requested documents from all files that I had knowledge that
18 they existed.

19 Q And who or what was your source of knowledge as
20 to what documents were to be produced?

21 A I am the one that established those files and
22 determined where those files would be located and how they
23 were going to be categorized.

24 Q How did you know what documents to search for?

25 A I asked for all files based upon each city

1 project categorization. Those are all the files known to
2 exist in my purview.

3 Q For low-power television?

4 A For all National Minority endeavors.

5 Q Would you state your education.

6 A I have a resume.

7 Q This is very quick. You don't need to --

8 A I have a baccalaureate level in
9 telecommunications from California State University at
10 Fresno.

11 Q And how long have you been employed at TBN?

12 A I have been employed at TBN since November of
13 '78.

14 Q Will you walk me through, if you will, the
15 various positions that you've held at TBN since November of
16 '78 up until today.

17 A Certainly. I was recruited by Trinity
18 Broadcasting in November of '78 as an engineering
19 supervisory position in charge of studio operations at the
20 headquarters facility in Tustin. In 1980 I was promoted to
21 the position of director of engineering. And in 1986 I was
22 elevated to vice president of engineering.

23 Q And that's the position you hold today?

24 A Correct.

25 Q Will you describe to me what your duties are as

1 vice president of engineering.

2 A In essence, I am held responsible for all
3 technical facets of the construction and operation of
4 facilities domestically and abroad with Trinity Broadcasting
5 Network.

6 Q And those are the duties you've had since 1986?

7 A Essentially those are the duties I've had since
8 1980.

9 Q I see. Now, at the present time Trinity, am I
10 correct, has an engineering department, is that the right
11 term, or department of engineering?

12 A Correct.

13 Q And you head up that department?

14 A That's correct.

15 Q And how many people work for you full time?

16 A I have general responsibility over roughly 100
17 people nationally and internationally.

18 Q And how many of those 100 people are located
19 here in Southern California?

20 A I would say about 20. These are all estimates.
21 I'm sorry, I can't give you exact numbers.

22 Q No, estimates are all I want. I should have
23 made that clear. I'm just asking for your best estimate.

24 A Okay.

25 Q And the remainder of the people are spread out

1 in other locations?

2 A Correct.

3 Q Now, are these 20 persons full-time persons?

4 A Some are, some are not.

5 Q How many of the 20 are full time and how many
6 of the 20 are part time?

7 A I would say the vast majority are full time.
8 Maybe three or four are part time. Let me rephrase that.
9 It's a difficult question because there are various levels
10 of technical personnel, and my response about 100 people
11 didn't take into consideration some of the operations level
12 people.

13 I'd really have to carefully think that
14 through, because 100 may be shy. And now, thinking about
15 the operations level people, there may be a lot more part
16 time. 150 would probably be a more close estimate. Of
17 that, how many part-time people, probably 50 or 60.

18 MR. TOPEL: And is that in Southern California or
19 total?

20 THE WITNESS: That's internationally.

21 MR. TOPEL: I'm sorry, Mr. Cohen.

22 MR. COHEN: No, you anticipated me. That was my
23 question.

24 Q By the way, I welcome what you're doing in
25 terms of perfecting or revising an answer as you think it

1 through. That's exactly what I stated to you at the outset
2 that I suggest you do, and I am pleased you are doing that,
3 because I want, and I think Mr. Topel would agree that he
4 wants, the best facts that you know. And so it's helpful
5 that you did what you did.

6 Now that you have further reflected on this,
7 what's the approximate number of people that you supervise,
8 if you will, in Southern California?

9 A In my building, I occupy a building in which
10 under my direct supervision in the same complex are six
11 people. I have a reporting relationship to a gentleman
12 classified as operations manager.

13 Q Who is that?

14 A George Murray, who is then over, I'm going to
15 say, 10 to 15 people. These 10 to 15 people don't report
16 directly to me. They report to Mr. Murray, and Mr. Murray
17 reports to me.

18 Q Now, we received something like 30,000 pieces
19 of paper, which I went bleary-eyed reviewing. I recall in
20 one of those pieces of paper a memorandum from you which you
21 said you wore many hats.

22 A That's correct.

23 Q I thought that was a very apt expression when I
24 saw all the hats that you wore, when I read all the hats.
25 Tell me, what hats do you wear at the present time?

1 A Okay. I'm presently vice president of
2 engineering for Trinity Broadcasting Network. I am vice
3 president of engineering for Community Educational TV, Inc.
4 I am a technical consultant for Jacksonville Educators
5 Broadcasting, All American TV, Incorporated, Sonlight
6 Broadcasting, Incorporated and National Minority TV,
7 Incorporated.

8 MR. COHEN: Could I hear the witness's answer read
9 back.

10 (Record read.)

11 BY MR. COHEN:

12 Q As far as NMTV is concerned, when you say you
13 are a technical consultant, what -- let me ask you another
14 one.

15 The term "technical consultant," as you have
16 used it, you have used it to describe four entities,
17 according to my notes. Are your duties as technical
18 consultant the same for all four of those entities?

19 A No.

20 Q They are different. Would you walk me through
21 briefly, if you will, what your duties as technical
22 consultant are for these four entities.

23 A Starting with?

24 Q Whichever one --

25 MR. TOPEL: I'm going to object to that question, but

1 I will allow the answer to go forward over my objections.
2 The grounds are relevancy.

3 THE WITNESS: Okay. With respect to All American TV,
4 Incorporated, my role with them is strictly as an advisor,
5 to make suggestions and recommendations with respect to
6 various issues, technical issues which crop up. And with
7 respect to leased facilities that they presently are using
8 owned by Trinity Broadcasting, I act as an interface between
9 the two organizations.

10 For Sonlight Broadcasting, I am strictly an
11 advisor. For Jacksonville Educators Broadcasting, I have a
12 relationship where I report to the Jacksonville Educators
13 board of directors with respect to assistance with
14 construction, with respect to providing technical backstop
15 and advice with respect to compliance issues and various
16 filings that come up. With National Minority TV, I play a
17 similar role.

18 BY MR. COHEN:

19 Q Similar to what?

20 A To what I do with Jacksonville Educators with
21 respect to assistance in construction, with respect to
22 providing a technical backstop to their technical personnel,
23 offering advice on and suggestions to the National Minority
24 board with respect to compliance issues and various others
25 that come up with the engineering department.

1 Q You talked about, as far as NMTV is concerned,
2 a backstop to NMTV's engineering, the people, you said?

3 A Yes.

4 Q Tell me, do you have knowledge as to who those
5 people are? First of all, do you know how many people that
6 consists of when you say "those people"?

7 A At the current time that consists of the
8 engineering staff in Portland, Oregon headed by Mark
9 Fountain, chief engineer.

10 Q Did it ever consist of a larger number of
11 people?

12 A Yes. At one time it consisted of the
13 engineering personnel in Odessa, Texas and Portland, Oregon.

14 Q And what was that person's name?

15 A There were three different people.

16 Q All serving consecutively in that capacity?

17 A Yes.

18 Q And that is the engineering staff, if you will,
19 of NMTV?

20 A Yes.

21 Q Now, it's my sense, and if I am in error, you
22 excuse me, from reviewing the documents, that Trinity
23 performs a variety of engineering functions and
24 responsibilities for NMTV.

25 I mean, we can go through this document by

1 document if that's necessary and appropriate, but would you
2 agree with that as a generalization? If not, we will do
3 it --

4 A I don't feel qualified to answer that. I can
5 only answer with respect to my own pursuit and department.

6 Q I'm talking about engineering, only
7 engineering. That's all I'm talking about, nothing else.

8 A I personally provided services. I don't know
9 that I can necessarily say that Trinity did. I don't feel
10 comfortable in saying Trinity did. I did as a consultant.

11 Q Then we will proceed in a different fashion. ?
12 Now, you serve as a consultant to NMTV; is that
13 correct?

14 A Correct.

15 Q And is that a term of art, or is that a title
16 that you have?

17 A I guess it's a default to what best describes
18 the functions that I perform.

19 Q Well, why don't you describe for us what
20 functions you perform, then, as a consultant.

21 A I just did.

22 Q You have. I wanted to make sure the record was
23 clear on that.

24 There came a time when you inspected the
25 facilities of WTGI; am I correct?

1 A Correct.

2 Q What hat were you wearing when you made that
3 inspection?

4 A Consultant for National Minority.

5 Q And did you prepare a report based on your
6 inspection?

7 A The purpose -- yes, I did.

8 Q Was it a written report?

9 A No.

10 Q It was an oral report?

11 A Correct.

12 Q And to whom did you make or give that report?

13 A Jane Duff.

14 Q Did you make it or give it to anybody else?

15 A Not that I recall.

16 Q Now, there is an entity named Planck,
17 P-l-a-n-c-k, Technical Services, Inc.; am I correct?

18 A Correct.

19 Q Am I correct that there was a time when that
20 company was owned by Trinity?

21 A That's correct.

22 Q And it was a profit-making arm of Trinity; is
23 that correct?

24 A Correct.

25 Q It was sold, and do you remember when,

1 approximately?

2 A I believe it's been about a year ago that it
3 was sold back to them.

4 Q Now, when Planck was an arm of Trinity, a
5 division or an arm, and I'm not trying to speak in a legal
6 sense, I'm not trying to trick you in any way, I guess it
7 would have been a subsidiary of Trinity, do you know?

8 A It was a for-profit corporation which was held
9 by -- at least my understanding was part of the stock was
10 held by Trinity.

11 Q For my purposes, that's fine. I'm not
12 interested in pursuing that, the complexities of that
13 relationship at all with you.

14 What I would like to know from you was when
15 Planck was related -- we will use the word "related," for
16 want of a better term -- what services did Planck perform?

17 A Planck performed --

18 Q I want to ask you for Trinity and for NMTV.

19 A Planck performed both equipment sales and
20 turnkey installation services, turnkey installations and
21 equipment sales for low-power installations and equipment
22 sales only -- no. Strike that. Occasional equipment
23 installation and equipment sales for full-power operations.

24 MR. COHEN: Could I hear that answer read back.

25 (Record read.)

1 BY MR. COHEN:

2 Q The functions that you've just described that
3 Planck performed, did they perform those services for
4 Trinity and for NMTV?

5 A Yes.

6 Q And there came a time that Planck was sold to
7 Jim Planck, is that his name? I think that's what I saw.

8 A Yes.

9 Q Post-sale does Planck perform the same
10 functions for Trinity and NMTV?

11 A Yes.

12 Q Did Planck also perform those functions for
13 Sonlight?

14 A Yes.

15 Q And did it for All American?

16 A Yes.

17 Q And does it still perform those functions for
18 Sonlight and All American?

19 A Yes and yes.

20 Q I'm going to show you a document, and tell me
21 if you know the answer to this. First let me identify the
22 document. Excuse me. I want to show you document 54570 on
23 the letterhead of Planck Technical Services dated May 21,
24 1988, a letter to you signed by James Planck.

25 Can you look at that for a second, and I have a

1 question about it.

2 A Okay.

3 Q The question I have is: Am I correct that the
4 Fresno, California location that's mentioned here was an
5 NMTV low-power television station?

6 A Yes, it was.

7 Q Now, was this letter a typical letter in terms
8 of the way Planck contacted you regarding services it was
9 performing for NMTV?

10 A No.

11 Q In what respect was it atypical?

12 A In two respects.

13 Q Please tell me.

14 A Number one, he would normally do that verbally
15 over the phone. Why he reverted to writing in this
16 particular occasion is a mystery to me. Secondly, he has
17 the incorrect entity on the letter.

18 Q And what is the correct entity?

19 A National Minority TV.

20 Q Did you point that out to him either orally or
21 in writing?

22 A I probably did.

23 Q There was a woman with a long name -- excuse me
24 for a minute. I'm having trouble finding it. Mr. Horvath
25 mentioned a woman with very long initials, George St. -- she

1 processes bills.

2 A Is that a question?

3 Q Yes.

4 A Pat St. John Clerke, my purchasing secretary.

5 Q She has a very unique name. And she is your
6 purchasing secretary?

7 A Correct.

8 Q And she provides services for NMTV as well as
9 Trinity?

10 A Correct.

11 Q Would you explain just how that works; that is,
12 tell me what engineering services Trinity provides for NMTV.

13 A The engineering services provided NMTV by
14 Trinity are, in essence, my services and whatever support
15 peripheral to that is required.

16 Q And what support is required?

17 A I would say secretarial, secretarial/clerical,
18 and purchasing support, purchasing clerical in my
19 department.

20 Q And that's handled for NMTV?

21 A That's correct.

22 Q In point of fact, does NMTV have any persons
23 who are employed by them who work in Southern California?

24 A Paid on their payroll?

25 Q Correct.

1 A I wouldn't know that.

2 Q You wouldn't know that?

3 A I wouldn't know who is on their payroll.

4 Q I see. Do you know of your own personal
5 knowledge whether NMTV has any engineering personnel on
6 their payroll other than the engineer in Portland?

7 A Consulting or staff?

8 Q Give it to me both ways.

9 A Staff engineering employees, I have no
10 knowledge of any other full-time engineering personnel other
11 than Portland, Oregon. Consulting, numerous.

12 Q And you say "numerous." Who are the numerous
13 that come to your mind?

14 A The service contractors associated with the
15 low-power installations as well as consulting engineer in
16 Washington, D.C. or the firm of Smith & Powstenko.

17 Q Who are also Trinity's consulting engineer?

18 A Correct.

19 Q Now, do you recall approximately when you
20 visited the WTGI facility?

21 A Yes.

22 Q When was that?

23 A I believe that was in the summer of '91.

24 Q And that was in connection with the purchase
25 that was aborted by NMTV of WTGI? I want to make sure we're

1 talking about --

2 A The purpose of my visit was to conduct an
3 inventory. That's pretty much the extent of my specific
4 knowledge of the --

5 Q And that was in connection with the purchase?

6 A That was my understanding.

7 Q I think I asked you earlier whether you had
8 prepared a report, and I think you testified you had not
9 prepared a written report.

10 A My recollection is I did not provide a written
11 report and I gave a verbal report to Jane Duff.

12 Q Right. I want to show you a document that was
13 produced in discovery and see if this refreshes your
14 recollection. It may, it may not. If it does, I'd like to
15 share this with you. It's a document numbered 55607 on the
16 letterhead of Trinity Broadcasting Network Engineering
17 Department Memo dated July 22nd to Paul Crouch from you, and
18 it purports to have your signature.

19 A Okay.

20 Q Is that your signature?

21 A That's my signature.

22 Q I don't want to quibble with you over the word
23 "report," but was that something that you wrote to
24 Mr. Crouch concerning your visit to --

25 A No, it was not.